

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Revision of the Commission's	)	
Rules to Ensure Compatibility	)	CC Docket No. 94-102
with Enhanced 911 Emergency	)	
Calling Systems	)	
	)	

**COMMENTS OF AT&T WIRELESS SERVICES, INC.**

Pursuant to the Public Notice released July 13, 2001,<sup>1/</sup> AT&T Wireless Services, Inc. ("AT&T") hereby submits its comments in support of the petition for waiver of the Phase II E911 rules filed by D&E/Omnipoint Wireless Joint Venture, L.P. d/b/a PCS One ("PCS One").<sup>2/</sup> PCS One has filed a waiver request demonstrating technology-related issues and special circumstances that satisfy the prerequisites for a waiver of the Commission's rules generally and the more detailed requirements for a waiver of the Phase II rules set forth in the Fourth MO&O.<sup>3/</sup> Accordingly, PCS One's petition should be granted.

**DISCUSSION**

Generally, the Commission's rules may be waived when there is good cause shown and when "special circumstances warrant a deviation from the general rule, and such a deviation will

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<sup>1/</sup> See Public Notice, WTB Seeks Comment on Wireless E911 Phase II Amended Waiver Request Filed by D&E Omnipoint Wireless Joint Venture, L.P., CC Docket No. 94-102 (rel. July 13, 2001).

<sup>2/</sup> D&E/Omnipoint Wireless Joint Venture, L.P.'s Petition For Waiver of the E-911 Phase II Location Technology Implementation Rules, filed June 20, 2001 ("PCS One Petition").

<sup>3/</sup> Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Fourth Memorandum Opinion and Order, 15 FCC Rcd 17442, ¶¶ 43-44 (rel. Sept. 8, 2000) ("Fourth MO&O").

serve the public interest.”<sup>4/</sup> In the context of the Phase II E-911 rules, the Commission has recognized that there may be instances where “technology-related issues” or “exceptional circumstances” make it impossible for a wireless carrier to deploy Phase II by October 1, 2001, and individual waivers could be granted in these circumstances.<sup>5/</sup> The Commission indicated that a request for such a waiver of the Phase II implementation rules should be “specific, focused and limited in scope, and with a clear path to full compliance.”<sup>6/</sup>

Applying these standards, the Commission granted a Phase II waiver to VoiceStream Wireless. The Commission found that VoiceStream’s proposal could offer “significant public safety benefits” by immediately providing a level of accuracy and reliability greater than that provided under Phase I, while also ensuring the rapid initial deployment of ALI capability, with a relatively brief transition to even more precise levels of accuracy.<sup>7/</sup> The Commission also found that VoiceStream had satisfied the “special circumstances” requirement because the Network Software Solution/Enhanced Observed Time Difference of Arrival (“NSS/E-OTD”) approach it proposed to use “may be the only ALI solution available in the near term for GSM carriers.”<sup>8/</sup>

PCS One now makes an equally compelling case for a waiver of the Phase II E-911 rules. Specifically, PCS One requests a waiver of the Phase II E911 rules to permit VoiceStream to deploy the same NSS/E-OTD Phase II solution for PCS One’s GSM network that VoiceStream

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<sup>4/</sup> Fourth MO&O at ¶ 43 (citing Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

<sup>5/</sup> Id. at ¶ 43.

<sup>6/</sup> Id. at ¶ 44.

<sup>7/</sup> Id. at ¶¶ 57-60.

<sup>8/</sup> Id. at ¶ 56.

is utilizing for its own network.<sup>9/</sup> As PCS One explains, fifty percent of PCS One is owned by VoiceStream, PCS One's network is technically integrated with Voice Stream's network in certain areas, and PCS One's network is almost entirely geographically surrounded by systems that are part of the VoiceStream network.<sup>10/</sup> Given these factors, it is in the interest of public safety, efficiency, and seamless service for PCS One and VoiceStream to use the same E911 solution.

As the Commission has already recognized in granting VoiceStream's waiver request, E-OTD may be the only ALI solution available in the short term for carriers using the GSM air interface.<sup>11/</sup> But even if there were an alternative technology for GSM carriers, PCS One has demonstrated that it would be unreasonable for the Commission to expect PCS One to deploy any technology other than NSS/E-OTD, given its relationship with VoiceStream. The Commission therefore should grant PCS One a waiver to use NSS/E-OTD under the same terms and conditions that it granted a waiver to VoiceStream.

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<sup>9/</sup> PCS One Petition at 1.

<sup>10/</sup> Id. at 2-3.

<sup>11/</sup> Fourth MO&O at ¶ 56.

## CONCLUSION

Because PCS One has demonstrated exceptional circumstances that satisfy the requirements for a waiver of the Phase II E911 implementation rules, its request for waiver should be granted.

Respectfully submitted,

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